

ORIGINAL

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

RANDALL'S ISLAND FAMILY GOLF
CENTERS, INC., et al.,

Debtors,

Chapter 11

Case Nos. 00-B-41065(SMB)
through 00-B-41196(SMB)

(Jointly Administered)

**NOTICE OF OBJECTION TO AUCTION
SUBMITTED BY MUSQUEAM INDIAN BAND**

PLEASE TAKE NOTICE, that the Musqueam Indian Band, by its attorneys Harris Beach LLP, objects to the Auction held on February 9, 2001, specifically pertaining to one of the affected locations, Site No. 466, of which The Musqueam Indian Band is the landlord and was deemed a Qualified Bidder, and further requests that its objection be heard at the Hearing to be held in this Court on February 14, 2001, for all of the reasons as set forth in the attached Affidavit of Rick Hewson, sworn to the 10th day of February, 2001, together with the "Terms of Sale" and "Notice of Protest" attached thereto.

Dated: February 12, 2001

HARRIS BEACH LLP

By: 

Israel E. Kornstein (IK-5198)
Attorneys for Musqueam Indian Band
Two World Trade Center, 85th Floor
New York, New York 10048
Tel.: (212) 687-0100

---TO:

Golenbock, Eiseman, Assor & Bell
- 437 Madison Avenue
New York, New York 10022
Attention: Jonathan L. Flaxer, Esq.
Fax: (212) 754-0330
Counsel for the Debtors

Keen Realty Consultants Inc.

60 Cutter Mill Road, Suite 407
Great Neck, New York 10021
Attention: Harold J. Bordwin
Fax: (516) 482-5764
Debtor's Real Estate Consultant

Berlack, Israels & Liberman, LLP

120 West 45th Street
New York, New York 10036
Attention: Edward S. Weisfelner, Esq.
Fax: (212) 704-0196
Counsel for Unsecured Creditors Committee

Morgan, Lewis & Bockius

101 Park Avenue
New York, New York 10178
Attention: Richard S. Toder, Esq.
Fax: (212) 309-6273
Counsel for The Chase Manhattan Bank, as Agent

Office of the United States Trustee

33 Whitehall Street, 21st Floor
New York, New York 10004
Attention: Brian Shoichi Masumoto
Fax: (212) 668-2255

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AFFIDAVIT

STATE OF New York)
COUNTY OF New York)

Rick Hewson, being duly sworn, deposes and says:

1. I am the Economic Development Advisor for the Musqueam Indian Band, which is authorized under the *Indian Act of Canada* to act on behalf of Her Majesty The Queen In Right of Canada, a landlord of one of the affected locations, Site No. 466, which is the subject of this Court's Order dated January 23, 2001 (the "Order").

2. The Debtors' motion upon which the Order was granted contained certain Bidding Procedures which were approved by the Order and the Debtors were authorized by the Order to conduct an Auction of the Assets on February 9, 2001, including the leases in respect of which the Musqueam Indian Band is authorized to act on behalf of the landlord.

3. The leases are in favor of Musqueam Recreations Ltd., a Canadian corporation which is a wholly owned subsidiary of Eagle Quest Family Golf Centers Inc., a Canadian corporation which is controlled by the Debtors.

Accordingly, the Solicitation For Bids contained in the Bidding Procedures was made by the Debtors on behalf of their Canadian subsidiaries in respect of

Canadian Assets including the said leases and they have the ability to cause them to perform the terms of the contract constituted by the acceptance of a bid including entry into a Lease Termination Agreement in respect of the leases to Musqueam Recreations Ltd. which has already been signed by Musqueam Indian Band on behalf of the landlord.

4. Under the terms of the Bidding Procedures, only Qualified Bidders would be permitted to submit bids at the Auction. Bids had to arrive at the office of Golenbock, Eiseman, Assor & Bell, Counsel for the Debtors, by 3:00 p.m. (EST) on February 5, 2001.

5. On February 5, 2001, the Musqueam Indian Band submitted a Bid, accompanied by the Required Bid Documents as a landlord of its property pursuant to the terms of the Bidding Procedures approved by the Order and, under paragraph 13 of the Order, became a "Qualified Bidder" for its property which was listed as one of the assets in Exhibit "A" to the proposed bidding procedures.

6. On February 6, 2001, the Musqueam Indian Band received a notice from Keen Realty who are agents for the Debtors advising that the terms of sale of the "Canadian Assets", which included the Musqueam Indian Band's property, were revised to require that the bid must relate to all the issued and outstanding shares of Eagle Quest Family Golf Centers, Inc. which, in turn, would transfer the shares of Musqueam Recreations Ltd. (the actual lessee of the Musqueam Indian Band property) to the successful bidder. A copy of the Terms of Sale mentioned in the notice is attached hereto.

7. ~~The~~ Terms of Sale claim that they are "based on the Court-

approved bidding procedures (the "Bidding Procedures")", although this is clearly not correct.

8. The terms of the approved Bidding Procedures and the Order approving same make it clear that a landlord may bid on the leasehold interest relating to his specific property, and paragraph 15 of this Court's Order specifically provides that "the Auction shall be conducted in accordance with the terms and provisions set forth in the Motion, including, without limitation, the Bidding Procedures (including exhibits thereto), all of which are incorporated into this Order as if set forth herein", and paragraph 16 of this Court's Order provides that "the Debtors, at or before the Auction, and in consultation with the Committee and Chase, may impose such other and additional reasonable terms and conditions that are non-material as they determine to be in the best interest of the Debtors, their estates and creditors."

9. Deponent and two other representatives of the Musqueam Indian Band attended the Auction of the Assets on February 9, 2001 at 9:00 a.m. (EST) at the Sheraton, 811 Seventh Avenue, New York, New York 10189.


10. At the Auction, we were advised by representatives of Keen Realty that we were "Qualified Bidders" but that we would only be permitted to bid for all the shares of Eagle Quest Family Golf Centers, Inc. We would not be permitted to make a bid as a landlord bidding on its own lease as contemplated by the Bidding Procedures.

11. We verbally objected to the requirement that we make a bid for all the shares of Eagle Quest Family Golf Centers Inc. and delivered to a representative of Keen Realty a signed Notice of Protest, a copy of which is attached hereto.

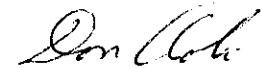
12. The Musqueam Indian Band objects to the Auction on the grounds that:

- (a) the Terms of Sale and the requirement that it may only bid for the shares of Eagle Quest Family Golf Centers Inc. and not as a landlord bidding on its own lease is a material amendment to the Bidding Procedures and not approved by the Order,
- (b) it complied with the requirements of the Bidding Procedures and, in the absence of any other bids for the assets of Site No. 466 which comply with the Bidding Procedures should be recognized as the Successful Bidder therefor,
- (c) anyone who made a bid for the shares of Eagle Quest did not make a bid in accordance with the Bidding Procedures and should not be considered a Successful Bid,
- (d) any transfer of shares of Musqueam Recreations Ltd. constitutes an assignment under the Leases which requires the consent of the landlord,
- (e) any transferee of the shares of Musqueam Recreations Ltd. takes

subject to the liabilities of Musqueam Recreations Ltd. in respect
of breaches of the Leases.


Rick Hewson

Sworn to before me this
10 day of Feb., 2001


Notary Public

DON AOKI
Notary Public, State of New York
No. 31-4985687
Qualified in New York County
Commission Expires August 26, 2001

KEEN REALTY CONSULTANTS INC.

60 Cutter Mill Road, Suite 407, Great Neck, NY 11021
Telephone: 516-482-2700 * Facsimile: 516-482-5764
E-mail: krc@keenconsultants.com

NOTICE

TO: Family Golf Bidders
DATE: February 6, 2001
SUBJECT MATTER: Family Golf Centers –
AUCTION UPDATE

I. AUCTION UPDATE:

- I. There are no "bulk bids" for the entire company and no "stalking-horse" bids.
- II. If you have experienced difficulty transmitting materials by facsimile, please contact Harold Bordwin and/or Craig Fox at Keen immediately at 516-482-2700.
- III. The Auction will be taking place, as scheduled, this Friday, February 9th, at 9:00 a.m. Invitees, please arrive between 8:00 and 8:30 a.m. to register.
- IV. The Auction will be held at the Sheraton Hotel, 811 Seventh Avenue, between 52nd and 53rd Streets, New York, New York.

II. CANADIAN GOLF SITES:

- A. Family Golf Centers' counsel has prepared a memorandum and a form of contract that detail the terms under which FGC is willing to sell its Canadian subsidiary, EQ Canada. These documents are available from Keen by emailing krc5@keenconsultants.com or by calling 516-482-2700, ext. 232.
- A. As previously announced, the Bid Deadline for the Canadian Golf Sites only is extended until Thursday, February 8, 2001 at 11:00 a.m. (NY).

III. FEBRUARY 14 AUCTION FOR "SKATE NATION OF PINEY ORCHARD", ODENTON, MD (Property I.D. #607):

The debtor has executed a contract to sell Property #607 for one million nine hundred thousand dollars (\$1,900,000). This contract is subject to overbidding at a Sale Hearing in Bankruptcy Court on Wednesday, February 14. This asset will not be available or bid upon as part of the February 9 auction.

Thank you for your interest in the Family Golf Center assets. Should you have any questions or desire any further information, please do not hesitate to contact us.

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MEMORANDUM

February 5, 2001

TO: Prospective Bidders for the Shares of Eagle Quest Family Golf Centers Inc.,
a Canada corporation ("EQ Canada")

FROM: Family Golf Centers, Inc. ("FG")

RE: Terms of Sale

This memorandum sets forth the terms under which FG (through its subsidiary, Family Golf Acquisition, Inc.) is willing to sell its Canadian subsidiary, EQ Canada, as part of the previously announced auction process as part of the pending proceeding under Chapter 11 of the United States Bankruptcy Code covering FG and its domestic United States subsidiaries.

Based on the Court-approved bidding procedures (the "Bidding Procedures"), but in order to accommodate conditions unique to a transaction for EQ Canada, the deadline for written bids for EQ Canada is extended from February 5 to February 8, 2001 at 11:00 a.m., New York time. Bids for EQ Canada must be in compliance with the terms set forth herein (including Attachment A hereto). Such offer must specify the cash purchase price offered (in United States dollars and payable at the closing of the sale) and must be accompanied by a certified check payable to Golenbock, Eiseman, Assor & Bell, as escrow agent, in an amount equal to 10% of the offered purchase price.

Bids will be considered and reviewed and the auction will be conducted in a manner substantially consistent with the Bidding Procedures. Each eligible bidder will be required to enter into a Purchase Agreement substantially consistent, in FG's sole judgment, with the terms outlined herein, promptly upon FG's request and, if requested by FG, prior to the auction. Eligible bidders who fail to timely execute such Purchase Agreement may, in FG's sole judgment, be denied the opportunity to participate in any auction.

Further terms are set forth in Attachment A hereto.

In determining the offered purchase price, bidders should pay particular attention to paragraphs 3 and 7 of Attachment A.

For further information, please contact Philip J. Gund (pgund@familygolf.com) at (631) 694-1666, ext. 112, or Jonathan Flaxer, Esq. (jflaxer@golenbock.com), at Golenbock Eiseman, Assor & Bell, at (212) 907-7327, or Nathan E. Assor, Esq. (nassor@golenbock.com), at Golenbock, Eiseman, Assor & Bell, at (212) 907-7333.

CANADA TERMS OF SALE.DOC

Attachment A

Additional Terms of Sale

1. The sale will be a sale of all issued and outstanding capital shares (the "Shares") of EQ Canada (the "Sale") by Family Golf Acquisition, Inc., a Delaware corporation (the "Seller").
2. Prior to or in connection with the closing of the Sale (the "Closing"), FG will cause all issued and outstanding shares of Eagle Quest Golf Centers (US), Inc. ("EQUUS"), currently a subsidiary of EQ Canada, and any amounts owing from EQUUS or any subsidiaries of EQUUS to EQ Canada (or any Canadian subsidiary of EQ Canada) to be acquired by FG or the Seller.
3. The purchase price for the Shares (the "Purchase Price") will be due and payable to the Seller in cash at the Closing, subject to the following escrows to be funded at the Closing:
 - (a) A sum equal to the minimum amount required to be withheld, if any, from the Purchase Price paid to the Seller at Closing pursuant to Section 116 of the Canada Income Tax Act ("Section 116") will be deposited in escrow with an escrow agent selected by FG, pending issuance of an appropriate Clearance Certificate under Section 116. The buyer ("Buyer") must fully cooperate to facilitate prompt issuance of the Clearance Certificate. The escrowed amount (or the portion thereof required to be paid under Section 116) will be paid to the applicable taxing authority if and when (that is, at the latest time) required by Section 116 or administrative practice.
 - (b) A sum (in Canadian dollars) equal to FG's good faith estimate of Canadian goods and service tax due from EQ Canada and its Canada subsidiaries for the nine month period ending September 30, 2000 (the "GST Liability") will be withheld from the Purchase Price paid to the Seller at Closing and deposited in escrow with an escrow agent selected by FG, and used to pay such GST Liability. Buyer must fully cooperate to facilitate such payment.
 - (c) A sum equal to \$100,000 will be withheld from the Purchase Price paid to the Seller at Closing and deposited with an escrow agent selected by FG, if a certain guaranty by EQ Canada of a certain lease obligation of a U.S. subsidiary of EQ US is not cancelled or discharged by the Closing. Such deposit may be used by FG for up to six months from Closing to obtain such cancellation or discharge and may be used by Buyer after such six month period in payment of sums due to the landlord in order to obtain such cancellation or discharge. Any portion of such deposit not so used will be immediately paid to the Seller.
4. The Closing will occur on a date specified by FG after approval by the Bankruptcy Court of the Sale of the Shares, free and clear of liens. FG will

CANADA TERMS OF SALE.DOC

have the right to adjourn the Closing, but the outside date for the Closing (including such adjournments) will be April 30, 2001.

5. Prior to or in connection with the Closing, any indebtedness owed by EQ Canada to FG or any of its U.S. subsidiaries will be transferred to the Seller and subsequently extinguished or contributed to the equity of EQ Canada. No assurance will be given as to the income tax consequences of such transaction, although FG will, in its sole discretion, consider structuring such transaction in a tax efficient manner if it determines that such structure will have no adverse effect whatsoever on FG or any of its subsidiaries or creditors. The transaction is not structured to preserve any net operating losses for EQ Canada or Buyer.
6. The Sale will be made without representations, warranties, indemnities or post-closing obligations of any nature of FG or the Seller and will set forth all disclaimers and waivers deemed appropriate by FG. In this regard, there will be no conditions to Buyer's obligations to close based on the status of title to any owned or leased properties or assets or based on restrictions as to assignments or changes of control in any lease. The Seller will have no obligation to deliver landlord estoppel letters to Buyer.
7. Except as noted in paragraphs 3(b) and 3(c) above, the Sale will not provide for or contemplate adjustments for or the discharge or proration of cash, accounts receivable, inventory, prepaid items, working capital, accounts payable, accrued expenses, taxes or liabilities of EQ or its Canada subsidiaries. Except as noted in paragraphs 2 and 5 above, assets and liabilities of such corporations, including, without limitation, indebtedness and letter of credit reimbursement obligations owing to Bank of Montreal, immediately prior to the time of the Closing would remain as such upon the Closing.

Bank of Montreal has advised EQ Canada that all indebtedness and letter of credit obligations owing to it must be discharged and satisfied in the event of a sale of shares of EQ Canada. A Buyer must comply with this requirement at Closing. The discharge and satisfaction of all indebtedness and obligations of EQ Canada to Bank of Montreal must be in a manner satisfactory to FG and so as to discharge and terminate any charge or lien of Bank of Montreal with respect to EQUUS or the capital shares or assets thereof. It should be noted that any cash collateral of EQ Canada held by Bank of Montreal would be available to be applied indebtedness and obligations owing to such Bank.

8. Escrow arrangements will be generally consistent, in FG's sole judgment, with those contemplated by the form of U.S. real estate contract heretofore approved by FG and incorporated into the Bidding Procedures (the "Real Estate Contract"), although FG will consider, in its sole discretion, using FG's Canadian counsel for certain escrow functions.

9. Default and certain other provisions will generally be substantially consistent, in FG's sole judgment, with those contemplated by the Real Estate Contract, although FG reserves the right to require additional provisions it considers appropriate for a sale of Shares.

NOTICE OF PROTEST

To: **Randall's Island Family Golf Centers, Inc.**
Musqueam Recreations Ltd.
Keen Realty Consultants

We refer to:

- (a) the Bidding Procedures as set out in the Motion of Mr. Flaxer of Golenbock, Eiserman, Assor & Bell dated January 11, 2001,
- (b) the Order dated January 23, 2001 of the Honourable Stuart M. Bernstein,
- (c) our Bid dated February 2, 2001.

You have advised us today that we are Qualified Bidders but only in respect of all the shares of Eagle Quest Family Golf Centers Inc. ("Eagle Quest") and not in respect of the leases and personal property associated with **Site No. 466**.

We hereby record our objection to your unilateral amendment to the terms of the Bidding Procedures which is not authorized by the Order.

The requirement that we must bid on the Shares is clearly inconsistent with the terms of the Order of the Honourable Stuart M. Bernstein dated January 23, 2001 approving the Bidding Procedures as set out in the Motion dated January 11, 2001. It is also clearly illusory as demonstrated by Mr. Flaxer's Motion filed February 8 in which the Debtors seek waiver of a U.S.\$34,000,000 intercorporate debt owed by Eagle Quest which no purchaser of shares can be reasonably expected to assume.

We formally protest your actions and require you to consider our Bid for the Leases and personal property associated with **Site No. 466** in good faith and in accordance with applicable law.

Dated this 9th day of February, 2001.

Musqueam Indian Band

by 

on its own behalf and on behalf of
Her Majesty The Queen In Right of Canada
pursuant to the authority granted under the
Indian Act

Harris Beach LLP
Israel E. Kornstein (IK-5198)
Two World Trade Center, 85th Floor
New York, New York 10048
(212) 687-0100
Attorneys for Musqueam Indian Band

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CERTIFICATE OF SERVICE

I, Israel E. Kornstein, an attorney admitted to practice in this Court, hereby certify that on this 12th day of February 2001, I caused a true and correct copy of the within Notice of Objection to Auction Submitted by Musqueam Indian Band in the above-captioned action to be served upon the following by facsimile and by placing said document in properly addressed postage prepaid envelopes, and mailing it via First Class United States Mail to counsel of record, at the following addresses:

Golenbock, Eiseman, Assor & Bell
437 Madison Avenue
New York, New York 10022
Attention: Jonathan L. Flaxer, Esq.
Fax: (212) 754-0330
Counsel for the Debtors

Keen Realty Consultants Inc.
60 Cutter Mill Road, Suite 407
Great Neck, New York 10021
Attention: Harold J. Bordwin
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120 West 45th Street
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Attention: Edward S. Weisfelner, Esq.
Fax: (212) 704-0196
Counsel for Unsecured Creditors Committee

Morgan, Lewis & Bockius

101 Park Avenue

New York, New York 10178

Attention: Richard S. Toder, Esq.

Fax: (212) 309-6273

Counsel for The Chase Manhattan Bank, as Agent

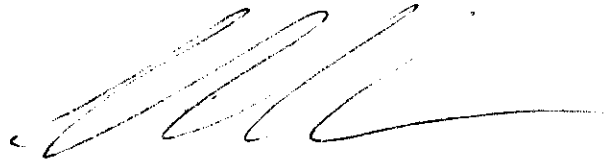
Office of the United States Trustee

33 Whitehall Street, 21st Floor

New York, New York 10004

Attention: Brian Shoichi Masumoto

Fax: (212) 668-2255

A handwritten signature in black ink, consisting of several stylized, overlapping loops and a long horizontal stroke at the end.

Israel E. Kornstein